

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Aquil Muhammad,

Case No. 24-cv-0098 (ECT/DLM)

Petitioner,

v.

**REPORT AND
RECOMMENDATION**

B. Eischen, FPC Duluth, Warden,

Respondent.

In an Order dated February 7, 2024, this Court ordered Petitioner Aquil Muhammad to “show cause why the Court should not recommend dismissing this action for lack of jurisdiction because this habeas action is moot.” (Doc. 4 at 2.) The Court gave Mr. Muhammad 21 days—that is, until February 28, 2024—to submit this filing, cautioning him that if he failed to respond, the Court would recommend dismissing this action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. (*See id.* at 2–3.)

That deadline has now passed and Mr. Muhammad has failed to comply with the Court’s instruction. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Given this recommendation, the Court further

recommends denying as moot Mr. Muhammad's application to proceed *in forma pauperis* in this action (Doc. 3).

RECOMMENDATION

Based upon the above, and on all of the files, records, and proceedings in this case,

IT IS RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and
2. Petitioner Aquil Muhammad's application to proceed *in forma pauperis* in this action (Doc. 3) be **DENIED AS MOOT**.

Date: March 11, 2024

s/Douglas L. Micko

DOUGLAS L. MICKO

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed findings and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served with a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).